IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 12.06.2006

Coram:-

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice V. DHANAPALAN

Habeas Corpus Petition No.168 of 2006

Suresh ... Petitioner

Vs.

The State rep. by its

1.The Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai, Egmore,
Chennai - 8. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records pertaining to the order of the detention passed against the detenu Suresh under Ref. No.281/BDFGISV/2005 dated 15.06.2005 by the second respondent herein and quash the same as not sustainable against the above named detenu and consequently direct the respondents to produce the body of the detenu Suresh who has been confined in Central Prison, Chennai - 3 before this Court and set him at liberty forthwith.

For Petitioner : Mr.P.Karthikeyan
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner by name Suresh, who was detained as a "Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982

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(Tamil Nadu Act 14 of 1982), by the impugned detention order dated 15.06.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that in view of the fact that there is a long gap between the alleged first occurrence which took place on 30.08.2002 and the alleged second occurrence which took place on 26.05.2005, the detaining authority has committed an error in detaining the detenu as a "Goonda" by treating him as a habitual offender. With reference to the said contention, we verified the details given in the grounds of detention. It is true that according to the detaining authority, the first occurrence took place on 30.08.2002, which relates to Crime No.479/2002 of P-2 Otteri Police Station and the offence involved is Sections 147, 148, 341, 326 read with 34 IPC. As per the grounds of detention, the second occurrence took place on 26.05.2005, which relates to Crime No.1295/2005 of K-1 Sembium Police Station and the offence involved is under Section 379 IPC. If we consider the first and second occurrence, it is true that there is a time lapse of nearly three years. However, it is not in dispute that the detention order came to be passed after the ground case that took place on 04.06.2005. It is clear that within a period of one week from the second occurrence, the detenu has committed the offence involved in the ground case, which relates to Crime No.1374/2005 of K-1 Sembium Police Station for various offences, including the offence under Sections 336, 341, 427, 397 and 506(ii) IPC. If we consider the second occurrence as well as the ground case, it cannot be contended that there is no habituality in the detenu committing the crimes. Even otherwise, it is the subjective satisfaction of the detaining authority. If based on the basis of the relevant materials the detaining authority is of the view that the activities of the detenu will be prejudicial to the maintenance of public order, he is free to pass an appropriate order under Act 14 of 1982. In such circumstances, we are unable to accept the first contention raised by the learned counsel for the petitioner.

4. The learned counsel for the petitioner next contended that even though the sponsoring authority has filed a Special Report dated 13.06.2005 informing the relevant fact that the remand was extended till 17.06.2005, no affidavit was filed in support of such a report. According to him, in the absence of any such material, the detaining authority is not justified in relying upon the special report of the sponsoring authority dated 13.06.2006. In this regard, learned Additional Public Prosecutor has brought to our notice that on 13.06.2005 itself, along with the special report, the sponsoring authority filed an affidavit mentioning the required reasons/details for forwarding the special report. We verified the said affidavit and we are satisfied that there is no truth in the contention raised by the learned counsel for the petitioner. Accordingly, we reject the second contention also.

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5. In the light of what is stated, we do not find any valid ground for interference. Consequently, the Habeas Corpus Petition fails and the same is dismissed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai-8.

3.The Superintendent, Central Prison, Chennai.3

4. The Joint Secretary to Government,
Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor,
High Court, Madras.

1 cc To Mr.P.Karthikeyan, Advocate, SR.24149.

HCP. No.168 of 2006

JRG(CO)
RVL 16.06.2006

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